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**OFFICE OF THE  
SECRETARY OF STATE**

**Secretary of State Interpretation**

**08-12-03**

**Question:** If a county clerk/registrar of voters determines that an application to register to vote is incomplete or incorrect, does Nevada law provide an opportunity for the applicant to submit a corrected application after the close of registration?

**Answer:** Yes. Nevada law provides the manner in which an in-person and mail-in applicant may update or correct the voter information, and may do so without losing his right to vote.

**Analysis**

Article 2, Section 1 of the Nevada Constitution provides that “[a]ll citizens of the United States...of the age of eighteen years and upwards, who shall have actually, and not constructively, resided in the state six months, and in the district or county thirty days next preceding any elections, shall be entitled to vote for all officers that now or hereafter may be elected by the people.” Nevada Revised Statute 293.127 requires Nevada’s elections laws “be liberally construed to the end that all electors have an opportunity to participate in elections and to cast their votes privately.”

Nevada law states that registration closes at 9:00 p.m. on the third Tuesday preceding the general election. NRS 293.560(1). (i.e. October 14, 2008 for this election cycle) NRS 293.5235(11) provides that, with a limited exception, the county clerk/registrar of voters shall not register a person to vote by mail [which also includes applications which are personally delivered to the county clerk, See NRS 293.5235(2) Since there is no limitation as to who makes the personal delivery, this would necessarily include delivery of applications delivered by third parties.] unless that person has provided all of the information required by the application. The Nevada Legislature has specifically outlined the procedures to be followed by the county clerks/registrar of voters in the event that the application is incomplete or in need of correction in order to register the voter. NRS 293.5235(6) specifically provides:

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Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➔ If the applicant does not provide the additional information within the prescribed period, the application is void.

NRS 293.5235(1) provides that a mailed or personally delivered application to register may be used either to register to vote or to correct information in the registrar of voters' register. NRS 293.5235(7) sets forth the criteria for determining the date upon which a person is deemed to be registered and provides in pertinent part:

The applicant **shall be deemed to be registered** or to have corrected the information in the register:

(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or

(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application, on the date the application is received by the county clerk.

Thus, a person registering by mail or by delivering an application to the county clerk, is deemed registered by this criteria whether or not the initial application is complete. If the county clerk determines that the application is not complete, then the procedure for completing the application is triggered and the burden shifts to the clerk to provide the notice to the applicant. Only if this procedure is followed and the applicant fails to provide the additional information within 15 days after the clerk mails the notice, will an application be considered void. Because of this procedure, there will necessarily be cases of applicants who are deemed registered on the last day of registration who then appear to vote at early voting prior to receiving any notice from the clerk. (i.e. in this

election cycle early voting commenced on October 18, 2008, a mere four days after the close of registration.) Such applicants who complete their applications at the polling place after personal notification of the incompleteness by the election worker at the direction of the county clerk, will have clearly complied so as to avoid the voiding of their application.

NRS 293.517 sets forth the manner in which an elector may register in-person with the county clerk/registrar of voters. Of the requirements, the elector must complete an application to register to vote “giving true and satisfactory answers to all questions relevant to his identity and right to vote, and providing proof of his residence and identity.” NRS 293.517(1)(a). Further, the statute requires:

The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver’s license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

In both instances above, the Nevada Legislature has provided a means by which an application to register to vote may be corrected prior to election day. There are multiple reasons why an elector’s information would require correction, such as the applicant incorrectly entering a critical piece of his or her information, data entry staff incorrectly entering the information from the application into the database, information contained in the application that is indecipherable and therefore omitted or incorrectly entered, or the voter married since the last election and failed to update his or her information. A majority of Nevada’s electors who fall into this category, known as a fatal pend<sup>1</sup>, are prior registrants who have not updated or corrected their information. In each of these instances the qualifications of the elector have not been altered and their eligibility to participate in the election is not affected so long as the requisite information is provided.

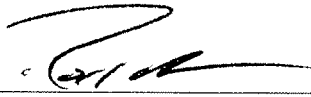
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<sup>1</sup> If the registered voter has failed to provide certain critical eligibility criteria and is ineligible to vote until the critical eligibility criteria is provided to the county clerk. Adopted Regulations of the Secretary of State, LCB File No. R018-07.

Similarly, the Supreme Court has made clear that a citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction. Evans v. Cornman, 398 U.S. 419 (1970); Kramer v. Union Free School District, 395 U.S. 701 (1969). Denying an elector the exercise of his fundamental right because of the absence of a piece of information would be the arbitrary enforcement of the requirements to participate in the upcoming election.

Respectfully,

ROSS MILLER  
Secretary of State



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